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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,157	09/24/2003	Satoshi Hiratsuka	YAMA:058	2828
ROSSI & ASSOCIATES P.O. Box 826 Ashburn, VA 20146-0826			EXAMINER QIN, JIANCHUN	
			ART UNIT 2837	PAPER NUMBER

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/670,157

Applicant(s)

HIRATSUKA, SATOSHI

Examiner

Jianchun Qin

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/24/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 3 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Eller et al. (U.S. Pat. No. 5889860).

With respect to claim 1:

Eller et al. teach an electronic musical system comprising: a music playing data extracting device which extracts a music playing data file from a given music work resource (col. 8, lines 36-38); an encrypting device which encrypt said extracted music playing data file using an encryption key (col. 5, lines 50-60; col. 8, lines 39-40); a storing device which stores said encrypted music playing data file (col. 5, lines 50-60; col. 6, lines 4-6); a decrypting device which decrypt said encrypted music playing data file from said storing device using a decryption key which corresponds to said encryption key (col. 5, lines 53-60; col. 6, lines 40-60; col. 8, lines 40-44); and an automatic music playing device which plays music of said given music work resource based on said decrypted music playing data file (col. 6, lines 12-17, lines 40-60; col. 8, lines 29-34, lines 40-44).

With respect to claim 2:

Art Unit: 2837

Eller et al. teach a method for ensuring secure use of a music playing data file comprising: a step of extracting a music playing data file from a given music work resource (col. 8, lines 36-38); a step of encrypting said extracted music playing data file using an encryption key (col. 5, lines 50-60; col. 8, lines 39-40); a step of storing said encrypted music playing data file (col. 5, lines 50-60; col. 6, lines 4-6); a step of decrypting said encrypted music playing data file as stored in said step of storing using a decryption key which corresponds to said encryption key (col. 5, lines 53-60; col. 6, lines 40-60; col. 8, lines 40-44); and a step of automatically playing music of said given music work resource based on said decrypted music playing data file (col. 6, lines 12-17, lines 40-60; col. 8, lines 29-34, lines 40-44).

With respect to claim 3:

The teaching of Eller et al. further includes: said automatic music playing device renders said decrypted music playing data file unutilizable after said music playing device has played music of said given music work resource (col. 6, lines 47-60; col. 9, lines 17-36).

With respect to claim 7:

The teaching of Eller et al. further includes: a computer program for ensuring secure use of a music playing data file (Abstract), said program comprising program instructions for a computer to execute: a step of extracting a music playing data file from a given music work resource (col. 8, lines 36-38); a step of encrypting said extracted music playing data file using an encryption key (col. 5, lines 50-60; col. 8, lines 39-40);

Art Unit: 2837

and a step of storing said encrypted music playing data file (col. 5, lines 50-60; col. 6, lines 4-6).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eller et al. in view of Oishi et al. (U.S. Pat. No. 6792539).

Eller et al. teach the method that includes the subject matter discussed above. Eller et al. do not mention expressly: regarding claims 4 and 5, said given music work resource is in an encrypted condition, and said music playing data extracting device decrypts said given music work resource in the encrypted condition before extracting said music playing data file; regarding claim 6, said music playing data extracting device renders said decrypted given music work resource unutilizable after said music playing data extracting device has extracted said music playing data file from said encrypted given music work resource.

With respect to claims 4 and 5:

Oishi et al. teach a processing method and apparatus for encrypted audio track data transfer, comprising: encrypting a given music work resource by a first encryption

Art Unit: 2837

means, decrypting said given music work resource in the encrypted condition, extracting data information from the decrypted file, and encrypting the data file again by a second encryption means (col. 3, lines 7-30).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the teaching of Oishi et al. in the invention of Eller et al. in order to prevent illicit or unauthorized use and copying of the music (Oishi et al., col. 1, lines 14-27).

With respect to claim 6:

The teaching of Eller et al. further includes: rendering said decrypted music unutilizable after extracting said music playing data from said encrypted given music work resource (col. 6, lines 57-60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate this teaching of Eller et al. into the apparatus and method of Oishi et al. so that, after extracting said music playing data from said data file encrypted by the first encryption means, said decrypted music would be made unutilizable, in order to prevent illicit or unauthorized use and copying of the music (Eller et al., Oishi et al., col. 6, lines 57-60 and Oishi et al., col. 1, lines 14-27).

Contact Information

Art Unit: 2837

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jianchun Qin whose telephone number is (571) 272-5981. The examiner can normally be reached on 8:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571) 272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jianchun Qin
Examiner
Art Unit 2837

JQ
June 7, 2005

Archives
KIMBERLY LOCKETT
PRIMARY EXAMINER